

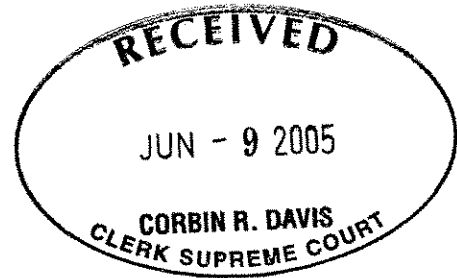
## James Sterling Lawrence

*Attorney at Law*

828 West Eleven Mile Road • Royal Oak • Michigan • 48067  
Phone (248) 399-6930 • Fax (248) 399-6949

June 7, 2005

Michigan Supreme Court  
PO Box 30052  
Lansing, MI 48909



Re: ADM File 2003-04, Proposed Amendment of MCR 7.205

Dear Justices:

I am writing to oppose the proposal to change the time for filing a Delayed Application for Leave to Appeal to the Court of Appeals from a Circuit Court ruling from 12 months to 6 months.

The principle effect of this proposed rule change on litigants is that some will miss the new, shorter deadline, meaning they will be deprived of access to the courts. This will particularly be a problem with prisoners. Many of those prisoners are familiar with the 12 month rule, or will hear about it from others. Many of the prisons have only old rule books, meaning that a prisoner might use due diligence to find out what the deadline is, only to find out that the most recent rulebook in the prison law library confirms the 12 month date.

Even when an attorney handles the case, there are a surprisingly high number of cases where the attorney needs to get certain records, but it takes a long time to get them. In one recent Macomb County case, I asked for a transcript which took over 6 months to get. In one Ingham County case from a couple years ago, it took me almost a whole year to get the transcript. Since neither case was an appeal of right situation, I had little leverage to force a speedier transcript preparation.

If the rule change is adopted, eventually, the majority of litigants and attorneys will be able to shoehorn their pleadings into the shortened schedule, but a few will bear the full brunt of the cost of the new rule, by being deprived of access to the courts. Others will suffer because the attorney or litigant may have to proceed without having full records available, which will make the task of the Court of

Appeals more difficult. The Court of Appeals deserves and needs the full records, and a shortening of the time to file means that more Court of Appeals filings will be made without all the lower court records. The time to file to the Court of Appeals is thus a very different matter than the time to file to the Michigan Supreme Court, as a filing to the Michigan Supreme Court will rarely require any new documentary material apart from the Court of Appeals ruling.

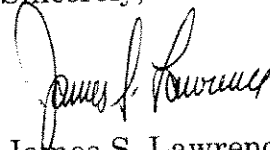
Another major effect of this proposed rule change will be on attorneys such as myself. With the present 12 month rule, I barely have the time to do all my work. If this is cut to 6 months, more work will have to be done in less time. This will inevitably mean less time spent working on each case, or a reduction in the number of cases. In the field of criminal appeals it is already difficult for attorneys to make ends meet, and this will exacerbate the problem for many attorneys.

Finally, and most importantly, the proposed rule change is not directed at any particular problem the court system now faces. I do not know of any particular problem of the appellate court system that is so serious it requires this significant rule change. If the rule were to be adopted, and did not prevent people from meeting the deadline, the number of filings at the Court of Appeals would be unchanged. If the rule were to be adopted, and did prevent some people from meeting the deadline, there would indeed be fewer Court of Appeals filings, but a small number of litigants would have to pay the full cost for the deadline reduction. At the same time, the Court of Appeals would have to deal with the newly created problem of having attorneys and litigants file less effective pleadings, supported by fewer useful documents.

It is not surprising, to me, that the Michigan Judges Association would support this proposal, in that it will in some ways reduce the workload of judges. If some parties are prevented from appealing, there will be that many fewer reversals, and therefore fewer instances where Circuit Judges have to deal with cases reversed or remanded by the Court of Appeals or Michigan Supreme Court. However, if the cases should have been reversed, the justice system is harmed if those reversals are precluded by an arbitrary reduction in time limits.

The business of the courts, including the Court of Appeals, is to follow the law and do justice. When the Court of Appeals is closed to a litigant, the law cannot be followed, nor justice done, in that litigant's case. The delays that now occur in the processing of Court of Appeals and Michigan Supreme Court applications are not outrageously long. The rule is not needed, poses problems to litigants, attorneys, and the Court of Appeals, and therefore in my view should not be adopted.

Sincerely,

A handwritten signature in cursive script, appearing to read "James S. Lawrence". The signature is written in dark ink and is positioned above the printed name.

James S. Lawrence